

C. J. TOOLE

DECEMBER 2 (legislative day, NOVEMBER 18), 1943.—Ordered to be printed

Mr. STEWART, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 636]

The Committee on Claims, to whom was referred the bill (H. R. 636) for the relief of C. J. Toole, having considered the same, report favorably thereon and recommend that the bill do pass with the following amendment:

Page 1, line 6, strike out "\$1,000" and insert in lieu thereof "\$500".

The facts will be found fully set forth in House Report No. 497, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 497, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 636) for the relief of C. J. Toole, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 6, after the figures "\$1,000" strike out the period and insert a comma, and then strike out the words "The payment of such sum represents reimbursement to the said C. J. Toole" and insert in lieu thereof the words "in full settlement of all claims against the United States for reimbursement".

Page 1, line 11, after the word "Division" strike out the period and insert a comma, and then strike out the words "The said Emmett Eugene Dean failed to appear on such date but was" and insert in lieu thereof the words "the said Emmett Eugene Dean having failed to appear on such date but being".

At the end of bill strike out period and add—

"*Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

The purpose of the proposed legislation is to pay to C. J. Toole, Macon, Ga., the sum of \$1,000, in full settlement of all claims against the United States for reimbursement of the amount paid by him to the United States as surety on a bond for the appearance on April 22, 1942, of Emmett Eugene Dean to answer criminal charges in the United States District Court for the Middle District of Georgia, Macon Division, the said Emmett Eugene Dean having failed to appear on such date but being apprehended shortly thereafter, at considerable expense to the said C. J. Toole, and convicted.

STATEMENT OF FACTS

Emmett Eugene Dean was indicted for violating the National Motor Vehicle Theft Act on January 28, 1942, but failed to appear when the case was called for trial on April 22, 1942, and his bond was forfeited. About 6 weeks thereafter he was arrested in Trenton, N. J., returned to the middle district of Georgia for trial, and upon conviction was on June 19, 1942, sentenced to serve 3 years in the penitentiary. Judgment on the bail bond of C. J. Toole, surety, was entered November 14, 1942. The judgment, including interest and costs, in the sum of \$1,027.83, was paid to the clerk of the court on December 12, 1942.

The Attorney General states that after Dean's default, the surety made an earnest effort to locate the fugitive and that certain information supplied by him aided materially in the arrest, and that the surety incurred expenses for pictures and fingerprint circulars, which were sent to police authorities in many parts of the country, and that he also offered a \$200 reward which was claimed by members of the New Jersey police.

The Attorney General further states that since the Government was put to an expense of approximately \$500 to effect the rearrest of Dean, there is no objection to enactment of the proposed legislation if amended to reduce the amount proposed to be paid by \$500 to take care of such expense.

Your committee, however, feel that since the surety, as admitted by the Attorney General, made an earnest effort to locate Dean, supplied material information leading to his arrest, and incurred considerable expense in so doing, he should be reimbursed the full amount of the bond, or \$1,000, as called for in the bill. This would still leave him several hundred dollars out of pocket.

Your committee, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the Attorney General, together with other pertinent evidence, all of which is made a part of this report.

DEPARTMENT OF JUSTICE,
Washington, D. C., April 26, 1943.

HON. DAN R. McGEHEE,
*Chairman, House Committee on Claims,
House of Representatives, Washington, D. C.*

MY DEAR MR. CONGRESSMAN: This is in response to your request for the views of this Department relative to a bill (H. R. 636) for the relief of C. J. Toole.

The bill provides for the payment of \$1,000 to C. J. Toole, Macon, Ga., as reimbursement for his loss as surety on a forfeited-bail bond given to secure the appearance of Emmet Eugene Dean on April 22, 1942, to answer criminal charges in the United States District Court for the Middle District of Georgia.

The files of this Department show that Dean was indicted for violating the National Motor Vehicle Theft Act (U. S. C., title 18, sec. 408) on January 28, 1942, but that he failed to appear when the case was called for trial on April 22, 1942, and the bond was forfeited. About 6 weeks thereafter he was arrested in Trenton, N. J., returned to the middle district of Georgia for trial, and upon conviction was sentenced on June 19, 1942, to serve 3 years in the penitentiary. Judgment on the bail bond against C. J. Toole, surety, was entered November 14, 1942. The judgment, including interest and costs, in the sum of \$1,027.83, was paid to the clerk of the court on December 12, 1942.

The files disclose that after Dean's default the surety made an earnest effort to locate the fugitive and that certain information supplied by him aided materially in the arrest. The surety incurred expenses for pictures and fingerprint circulars which were sent to police authorities in many parts of the country. He also offered a \$200 reward which is now claimed by members of the New Jersey police.

The expenses of the United States marshal in returning Dean for trial after his rearrest amounted to approximately the sum of \$150. Other expenditures were incurred in connection with the search for the fugitive. The sum of \$500 would probably cover all of the expenses incurred by the United States by reason of the default.

In the light of the circumstances, if the amount of the proposed refund were reduced by \$500, and the bill were amended accordingly to provide for the payment of the sum of \$500, I would find no objection to its enactment.

I have been advised by the Director of the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

FRANCIS BIDDLE,
Attorney General.

Purchaser's Receipt No. B 3709

THE FIRST NATIONAL BANK & TRUST CO., MACON, GA.

DECEMBER 11, 1942.

Payable to George F. White, clerk, United States Court, Middle District of Georgia, \$1,027.83.

To Trust Co. of Georgia, Atlanta, Ga.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF
GEORGIA, MACON DIVISION

Docket No. 5371. Criminal. Forfeiture of Recognizance. Civil Action No. 201. Motion for Judgment on Recognizance. Filed September 29, 1942. Judgment for U. S. on November 14, 1942.

United States of America v. Emmett Eugene Dean and C. J. Toole

Received of C. J. Toole, one of the defendants above-named, he being surety upon the recognizance executed on December 22, 1941, for the appearance of Emmett Eugene Dean, defendant in the criminal case, said Emmett Eugene Dean having defaulted in his appearance, said recognizance having been forfeited and judgment having been entered against Emmett Eugene Dean, principal, and C. J. Toole, surety, the sum of \$1,000 principal, \$22 costs, and \$5.83 interest, or a total of \$1,027.83, in full and complete payment and satisfaction of the liability of said C. J. Toole, said surety on said recognizance, as evidenced by the pleadings and/or the said judgment of the court entered on November 14, 1942. This December 12th, 1942.

[SEAL]

GEORGE F. WHITE,
Clerk U. S. Court, Middle District of Georgia,
Macon Division.
By WALTER F. DOYLE, Deputy Clerk.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF
GEORGIA, MACON DIVISION

Docket No. 5371, Criminal. Forfeiture of Recognizance, Civil Action No. 201. Motion for Judgment on Recognizance, Filed September 29, 1942

United States of America v. Emmett Eugene Dean and C. J. Toole

RESPONSE, MOTION, AND APPEAL AD MISERICORDIAM OF C. J. TOOLE, SURETY

To the HONORABLE BASCOM S. DEAVER, *Judge of said Court*:

Comes now C. J. Toole and files this his response, motion, and appeal ad misericordiam in the matter above captioned, and respectfully shows:

1. Respondent admits it is true the case of *United States v. Emmett Eugene Dean* who was charged with the offense of transporting a stolen automobile in interstate commerce (violating 18 U. S. C. A. 408, Docket No. 5371, District Court of the United States, Middle District of Georgia, Macon Division) was called for trial on the 22d day of April 1942 and the United States, by its attorney, announced that it was ready and the defendant, Emmett Eugene Dean, failed to appear; thereupon, the defendant was called three times but failed to answer and defaulted in his appearance; thereupon, C. J. Toole, surety upon the recognizance executed on the 22d day of December 1941 for the appearance of the defendant in this court to answer a charge against him by the United States, was called and ordered to bring the body of the principal, the said Emmett Eugene Dean, but failed and defaulted therein and that on September 28, 1942, the default of Emmett Eugene Dean, principal, and C. J. Toole, surety, was entered on record in said cause.

2. Respondent admits that the amount of the bond is \$1,000.

3. Respondent admits that on September 29, 1942, the United States of America, acting by and through the United States district attorney, filed in this court its motion for judgment on recognizance and notice thereof and of time of hearing was duly served on respondent's attorney and acknowledged.

4. Respondent shows that both before and after defendant Dean defaulted in his appearance your respondent did everything within his power to apprehend

said Dean, and to deliver him into the custody of the proper officers of this court. Respondent offered a reward for Dean's arrest; he dispatched telegrams and mailed "wanted" circulars describing Dean to many parts of the United States. He secured the cooperation of the Macon Police Department and the sheriff's office of Bibb County in his efforts to apprehend said Dean and deliver him to the United States authorities at Macon, and in connection with this he incurred considerable expense. The Government officers at Macon cooperated fully with respondent in his efforts to apprehend said Dean, and as a result of all this said Dean was arrested by officers in New Jersey and was returned to Macon and delivered to the United States marshal.

5. On June 18, 1942, said Dean pleaded guilty before Judge Deaver and was sentenced to serve a term of 3 years in the penitentiary and he is now serving said sentence.

Now, therefore, respondent, as he contends, having made it appear to the court that there was no willful default on his part; that said principal has been apprehended largely through the efforts of respondent; that said principal has pleaded guilty in said cause and has been sentenced by the court as aforesaid; that he is now serving his sentence; that public justice does not require enforcement of the penalty sought to be enforced in said cause; that the said penalty should be remitted by the court; that said entry of default should be set aside and vacated; that said motion for judgment on recognizance in said cause should be overruled and denied; that said forfeiture should be remitted and vacated, files this his response and motion in said cause and his appeal ad misericordiam and moves the court as follows:

(a) To set aside and vacate the said entry of default ordered by the court on September 28, 1942, as to your respondent.

(b) To overrule and deny the motion for judgment on recognizance in said cause filed on behalf of the United States in this court on September 29, 1942.

(c) To remit the said penalty and to remit and vacate the said forfeiture as an act of grace, upon payment by your respondent of such costs and expenses in connection with said cause as to the court may seem just and right.

Respectfully submitted.

EARL W. BUTLER,
Attorney for Respondent-Movant.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF
GEORGIA, MACON DIVISION

Personally appeared before the undersigned authority, C. J. Toole, who on oath after being duly sworn, deposes and says that the facts and things set forth in the foregoing response and motion are true.

C. J. TOOLE.

Sworn to and subscribed before me this 15th day of October 1942.

LOUISE W. HARDIN,
Notary Public, Bibb County, Ga.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF
GEORGIA, MACON DIVISION

NOTICE OF MOTION

To the United States of America and the Honorable John P. Cowart, Assistant United States Attorney, Macon, Ga.:

Please take notice that the undersigned as attorney for C. J. Toole, will bring the above motion on for hearing before this court at the courtroom, United States Post Office Building, at Macon, Ga., on the third Monday in October 1942 at the opening of court on that day.

EARL W. BUTLER,
Attorney for C. J. Toole, Respondent-Movant.

Due and legal service of the within and foregoing response and motion acknowledged. Copy received; all other, further, and better service hereby waived.

This 15th day of October 1942.

JOHN P. COWART,
Assistant United States Attorney.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF
GEORGIA, MACON DIVISION

Civil Action No. 201, In Re Criminal Docket No. 5371

United States of America, v. Emmett Eugene Dean, C. J. Toole

It appearing to the court that Emmett Eugene Dean, principal, and C. J. Toole, surety for the said Emmett Eugene Dean, having both been duly and legally served;

And it further appearing that no response has been made by the said Emmett Eugene Dean, and that the same is in default as to Emmett Eugene Dean;

And it appearing further that the surety, C. J. Toole, filed a response herein on October 15, 1942;

And it further appearing that counsel for the United States, the plaintiff, and counsel for C. J. Toole, defendant, have stipulated the facts in the within matter;

And it further appearing that a hearing was had herein on October 19, 1942;

Whereupon it is considered, ordered and adjudged by the court that the United States of America have and recover of the said defendants, Emmett Eugene Dean and C. J. Toole, both jointly and severally, the principal sum of \$1,000 the amount of their obligation as set forth in the bond executed by each of them on December 22, 1941, together with interest at the rate of 7 percent per annum on the principal amount from the date of judgment, and the costs of said proceedings.

In open court, this 14th day of November 1942.

BASCOM S. DEEVER,
United States Judge.

A true copy.

GEO. F. WHITE, *Clerk.*



The first of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the second is the fact that the system is not a static one, but a dynamic one, involving many different factors.

The third of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the fourth is the fact that the system is not a static one, but a dynamic one, involving many different factors.

The fifth of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the sixth is the fact that the system is not a static one, but a dynamic one, involving many different factors.

The seventh of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the eighth is the fact that the system is not a static one, but a dynamic one, involving many different factors.

The ninth of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the tenth is the fact that the system is not a static one, but a dynamic one, involving many different factors.

The eleventh of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the twelfth is the fact that the system is not a static one, but a dynamic one, involving many different factors.

The thirteenth of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the fourteenth is the fact that the system is not a static one, but a dynamic one, involving many different factors.

The fifteenth of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the sixteenth is the fact that the system is not a static one, but a dynamic one, involving many different factors.

The seventeenth of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the eighteenth is the fact that the system is not a static one, but a dynamic one, involving many different factors.

The nineteenth of these is the fact that the system is not a simple one, but a complex one, involving many different factors, and the twentieth is the fact that the system is not a static one, but a dynamic one, involving many different factors.